

AMENDED IN ASSEMBLY JULY 1, 2003

AMENDED IN SENATE JUNE 4, 2003

AMENDED IN SENATE MAY 20, 2003

AMENDED IN SENATE APRIL 28, 2003

AMENDED IN SENATE APRIL 10, 2003

AMENDED IN SENATE APRIL 8, 2003

## SENATE BILL

**No. 888**

**Introduced by Senators Dunn, Bowen, and Burton**  
**(Coauthors: Senators Cedillo, Escutia, Karnette, Kuehl, Murray,**  
**Ortiz, Perata, and Romero)**

**(Coauthors: Assembly Members Leno, Matthews, Oropeza, and**  
**Steinberg)**

February 21, 2003

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An act to amend Sections ~~335~~, 348, 352, 364, 367, 377, 379, 392, and 9604 of, to amend and renumber Section 454.1 of, to add Sections ~~330.1, 330.2, 330.4, 330.6, 367.5, 393.1, 393.2, 454.55, 454.10, 701.2, 739.12, and 761.7~~ 330.1, 330.4, 330.6, 367.5, 393.2, 454.51, 454.55, and 454.10, to, to repeal Sections 334, 338, 341.1, 341.5, 346, 350, 355, 356, 359, 360, 361, 365.5, 366.5, 367.7, 370, 373, 376, 378, 389, 391, 397, 9600, 9601, 9602, 9603, and 9605 of, and to repeal and add Sections 330, 365, and 366 of, the Public Utilities Code, relating to public utilities.

### LEGISLATIVE COUNSEL'S DIGEST

SB 888, as amended, Dunn. Public utilities: electrical restructuring.

(1) The California Constitution establishes the Public Utilities Commission, with jurisdiction over all public utilities. Private corporations and persons that own, operate, control, or manage a line, plant, or system for the production, generation, transmission, or furnishing of heat, light, or power, directly or indirectly, to or for the public, are public utilities subject to control by the Legislature. The Constitution grants the commission certain general powers over all public utilities, including the power to fix rates and establish rules, and authorizes the Legislature, unlimited by the other provisions of the Constitution, to confer additional authority and jurisdiction upon the commission, that is cognate and germane to the regulation of public utilities. The Public Utilities Act authorizes the commission to supervise and regulate every public utility in the state, including electrical, gas, and heat corporations, subject to provisions restructuring the electrical industry.

The existing restructuring of the electrical services industry provides for the authorization of direct transactions between an electric service provider, as defined, and retail end-use customers of an electrical corporation and allows end-use customers to aggregate their loads to facilitate direct transactions. The existing restructuring of the electrical industry within the Public Utilities Act provides for the establishment of an Independent System Operator (ISO) and a Power Exchange as separately incorporated public benefit nonprofit corporations. An Electricity Oversight Board (Oversight Board) is also established to oversee the ISO and the Power Exchange in order to ensure the success of electric industry restructuring and to ensure a reliable supply of electricity in the transition to a new market structure. The ISO is required by existing law to participate in all relevant proceedings of the Federal Energy Regulatory Commission (FERC). Pursuant to an order of the FERC, the Power Exchange has ceased to function. The Oversight Board is granted various powers including, but not limited to, requiring the revision of the bylaws of the ISO and the approval of the entry of the ISO into a multistate entity or a regional organization. Existing law requires the ISO to adopt certain inspection, maintenance, repair, and replacement standards for the transmission facilities under its control and to make a related report to the Oversight Board. Existing law authorizes the ISO and the Power Exchange to enter into a regional compact or other comparable agreement to become western states regional organizations.



This bill would enact the Repeal of Electricity Deregulation Act of 2003. The bill would provide that electrical and gas corporations have an obligation to serve retail customers with reliable service at just and reasonable rates. The bill would provide that this obligation includes a duty to ~~promote the safety, health, environmental protection, comfort, and convenience of its customers, employees, and the public, furnish and maintain adequate, efficient, just, and reasonable service, and to employ those instrumentalities, equipment, and facilities that are necessary to promote the safety, health, comfort, and convenience of utility customers, employees, and the public, while promoting a sustainable environment,~~ consistent with the statutes of the state and the rules, regulations, decisions, and orders of the commission. The bill would provide that this obligation to serve also includes the obligation to plan for and provide sufficient, affordable, *and* reliable, ~~cost-effective~~ resources, including utility owned and procured generation resources, *renewable generation resources*, transmission ~~resources,~~ and distribution resources, *and cost-effective energy efficiency resources*. The bill would require the commission to ensure that the electrical corporation is afforded the means to carry out these obligations, specifically including a reasonable opportunity to *fully* recover from all customers, reasonable costs to operate and maintain those resources, reasonable compensation for employees, a return of and a reasonable return on prudent investments in utility owned generation, transmission, and distribution resources necessary to meet the above obligations, and reasonable costs for procured generation resources. The bill would require the commission to ensure that generation assets remain dedicated for the benefit of the electrical corporation's bundled customers, and establishes standards for the recovery of costs and return on investment. The bill requires the commission to establish and oversee a long-term, comprehensive integrated resource planning process that results in a balanced, reliable, environmentally responsible portfolio of supply and demand-reduction resources, and to ensure that the electrical corporation's procurement plan is consistent with the long-term resource plan, to the extent feasible. The bill would authorize the commission to require electrical corporations to make investments in electric generation plants that are dedicated to serve customers connected to the electrical corporation's distribution system or grid, or to contract for such investment with any entity, including the California Consumer Power and Conservation Financing Authority.



~~This bill would delete the authorization of direct transactions, including aggregation of loads and other provisions to facilitate direct transactions, between an electric service provider and retail end-use customers of an electrical corporation, on a prospective basis. The bill would require all metering of customer usage of electricity and customer billing to be performed by the electrical corporation and would prohibit residential and small commercial customers being required to take service under a time-differentiated rate without prior consent.~~

This bill would delete those provisions establishing the Power Exchange. The bill would delete provisions relative to the ISO participation in FERC activities. The bill would require the Legislature to approve the entry of the ISO into a multistate or regional transmission organization, and would repeal that provision regarding the adoption of standards for transmission facilities by the ISO. The bill would require the commission to adopt and periodically review and update inspection, maintenance, repair, and replacement standards for the distribution systems of investor-owned electric utilities. The bill would require the commission, ~~on or before June 1, 2004,~~ to develop, and submit to the Legislature for enactment as a statute, a detailed proposal for implementation of a “core/noncore” model for retail electric service that achieves certain objectives. *The bill would prohibit the commission from authorizing any direct transaction until the commission has developed, and the Legislature enacted, a “core/noncore” model for retail electric service. The bill would authorize a customer that receives electricity pursuant to a direct transaction on April 1, 2003, to continue to be served by the electric service provider.* The bill would repeal the regional compact provision. The bill would make other conforming changes. Because any violation of the Public Utilities Act is a crime, the bill would impose a state-mandated local program by changing the definition of a crime.

This bill would establish a Ratepayer Refund Account for each electrical corporation, into which would be paid *in a manner and amount authorized by the commission*, any funds recovered by electrical corporations resulting from litigation or agreement relative to the charging of excessive costs for wholesale electricity by electrical generators. All funds would be held in trust for the benefit of ratepayers ~~as authorized by the commission.~~

~~(2) The existing Public Utilities Act, prohibits any person or corporation from acquiring or controlling, directly or indirectly, any~~



~~public utility organized and doing business in this state, including electrical corporations and gas corporations, without first securing authorization to do so from the commission.~~

~~Existing law requires the commission, before authorizing the acquisition or control of an electric, gas, or telephone utility having revenues in excess of a specified amount, to consider, among other things, that the proposal provides short-term and long-term economic benefits to ratepayers, and equitably allocates the short-term and long-term forecasted economic benefits of the proposed merger, acquisition, or control, as determined by the commission, between shareholders and ratepayers, where the commission has ratemaking authority.~~

~~Pursuant to the act, the commission has authorized the formation of holding companies holding a controlling interest in certain electrical corporations and gas corporations. The commission has conditioned authorization upon the capital requirements of the electrical corporation or gas corporation being given first priority by the board of directors of the parent holding company, as determined by the commission as being necessary to meet the obligation to serve the electrical corporation or gas corporation.~~

~~This bill would provide that a holding company, as defined, or other entity that owns, controls, operates, or manages a public utility, is subject to the continuing jurisdiction and power of the commission for the limited purpose of monitoring and enforcing conditions in certain decisions of the commission authorizing the formation of holding companies. Because a violation of the Public Utilities Act or an order of the commission is a crime under existing law, the bill would impose a state-mandated local program by creating a new crime.~~

~~(3) This bill would delete provisions relative to the restructuring of electrical service provided by publicly owned electrical utilities.~~

~~(4)~~

~~(3) This bill would require the commission to establish by July 1, 2004, special bundled service rates for public school facilities, as defined, that reflect the typical seasonal load shape of public schools and the special importance of public education.~~

~~(5)~~

~~(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~



This bill would provide that no reimbursement is required by this act for a specified reason.

~~(6) This bill would provide that it shall not become operative, and that it is for display purposes only.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 330 of the Public Utilities Code is  
2 repealed.

3 SEC. 2. Section 330 is added to the Public Utilities Code, to  
4 read:

5 330. The act adding this section shall be known and may be  
6 cited as the Repeal of Electricity Deregulation Act of 2003.

7 SEC. 3. Section 330.1 is added to the Public Utilities Code, to  
8 read:

9 330.1. The Legislature finds and declares all of the following:

10 (a) *Electricity is a unique good in modern society, not a simple*  
11 *commodity. Access to safe, reliable, clean, efficient, and*  
12 *affordable electrical service is indispensable to the health,*  
13 *comfort, and well-being of every person and business in*  
14 *California.*

15 (b) *It is in the public interest to repudiate the failed policies of*  
16 *electrical industry regulation and instead achieve effective state*  
17 *regulation of California's electrical corporations in order to*  
18 *protect ratepayers, ensure adequate, safe, and efficient electrical*  
19 *service, and to protect public health and the environment.*

20 ~~(a) Electricity is a unique good in modern society, not a simple~~  
21 ~~commodity. Access to safe, reliable, environmentally clean,~~  
22 ~~efficient, and affordable electrical service is indispensable to the~~  
23 ~~health, comfort, and well-being of every person and business, and~~  
24 ~~should be regarded as a right.~~

25 ~~(b) Unlike other commodities, electricity must be~~  
26 ~~manufactured at the same instant it is consumed, it cannot be~~  
27 ~~effectively stored, and adequate generating conservation,~~  
28 ~~efficiency, generation, and transmission capacity must be~~  
29 ~~available at all times to meet any level of demand at any location.~~  
30 ~~Shortages, even for only a few minutes, cause blackouts. This~~

1 combination of circumstances creates unparalleled opportunities  
2 for discrimination and market manipulation.

3 (c) ~~Reliable, environmentally clean, and efficient, electrical~~  
4 ~~service is of utmost importance to the safety, health, and welfare~~  
5 ~~of the state's citizenry, environment, and economy. It is the intent~~  
6 ~~of the Legislature that regulation of the electrical industry should~~  
7 ~~ensure the reliability of electrical service to end users, including~~  
8 ~~the reliability of the interconnected regional transmission systems;~~  
9 ~~and provide strong coordination and enforceable protocols for all~~  
10 ~~users of the electricity grid.~~

11 (d) ~~Accordingly, the electrical industry must be~~  
12 ~~comprehensively regulated, by state and federal agencies for~~  
13 ~~investor-owned utilities, or by customer-controlled structures for~~  
14 ~~public and cooperative utilities. The people of California expect~~  
15 ~~effective government and utility action to ensure reliable service~~  
16 ~~at reasonable rates.~~

17 (e) ~~Electrical service in California was restructured, or~~  
18 ~~deregulated, by orders of the California Public Utilities~~  
19 ~~Commission (CPUC) and the Federal Energy Regulatory~~  
20 ~~Commission (FERC), and actions of the California Independent~~  
21 ~~System Operator pursuant to FERC authorization, which ordered~~  
22 ~~separation of the transmission and generation elements of~~  
23 ~~electrical service resulting in: (1) divestiture of powerplants that~~  
24 ~~had been built and dedicated to serve California consumers at just~~  
25 ~~and reasonable regulated rates; (2) the separation of wholesale and~~  
26 ~~retail transmission service by the utility owners of the transmission~~  
27 ~~facilities; (3) uses of the transmission grid designed to enable~~  
28 ~~sellers to undermine grid reliability in the pursuit of high prices~~  
29 ~~through the exercise of market power.~~

30 (f) ~~The California Legislature confirmed the CPUC orders in~~  
31 ~~some respects through the enactment of Assembly Bill 1890~~  
32 ~~(Chapter 854 of the Statutes of 1996), and in so doing, codified the~~  
33 ~~basic tenants of deregulation of electrical service in California.~~

34 (g) ~~As the direct result of deregulation of the electrical industry,~~  
35 ~~electricity markets in California have been grossly dysfunctional~~  
36 ~~for the past several years, characterized by manipulation and abuse~~  
37 ~~of seller market power in wholesale electricity markets,~~  
38 ~~withholding of vital energy supplies and other illegal conduct that~~  
39 ~~resulted in unjust and unreasonable wholesale prices for~~



1 electricity, causing elevated retail rates and repeated actual and  
2 threatened interruptions of electrical service.

3 (h) As the direct result of the deregulation of the wholesale  
4 electrical market and the dysfunctional service arrangements,  
5 residential and business consumers have endured the single largest  
6 retail rate increase in the state's history, the state's largest electrical  
7 corporation filed for bankruptcy, a second electrical corporation  
8 was on the verge of insolvency, and reliable electrical service was  
9 repeatedly jeopardized. It will take many years for the economic  
10 effects of these calamities to be overcome.

11 (i) During the period from May 2000 through June 2001,  
12 California was beset by actual and threatened blackouts due to  
13 supply withholding by wholesale generators and electricity  
14 traders, using both direct and indirect means to make electricity  
15 unavailable to the people of California.

16 (j) As the direct result of deregulation of the electrical supply  
17 market, California was forced to rely entirely on unregulated  
18 private investment decisions to provide sufficient electrical  
19 generation to satisfy the demand for electricity. As a direct result  
20 of deregulation of the electrical supply market, California has  
21 experienced the boom and bust cycle in the construction of new  
22 electrical powerplants that characterizes any unregulated market.

23 (k) The state should move to a new model for electricity  
24 resource development and management, under which public  
25 utilities manage and improve their generation, transmission, and  
26 distribution systems as well as a resource portfolio including  
27 cost-effective energy efficiency and conservation and  
28 environmentally clean and efficient electrical generation  
29 resources.

30 (l) It appears inevitable that California electricity consumers  
31 will be called upon to provide the ultimate credit support for any  
32 new investments in facilities for the provision of electrical service  
33 in the future, either via rate-based utility investments or through  
34 preapproved long-term contracts with other suppliers. Therefore,  
35 protecting the interests of consumers by ensuring that these  
36 investments are prudent and cost-effective should be the highest  
37 priority of California regulatory policy and action.

38 (m) It is in the state's interest to have functional creditworthy  
39 public utilities providing essential electrical service to California  
40 consumers at just and reasonable rates and to limit the exposure of



~~California consumers to dysfunctional deregulated wholesale electricity markets.~~

~~(n) Fully empowering public utilities and state entities and agencies, including the CPUC, the California Consumer Power and Conservation Financing Authority, the Independent System Operator, and the Department of Water Resources to mitigate the exercise of market power by sellers of electricity, reduce prices for electricity, and restore electrical grid reliability, is in the public interest. To the extent that unbundling the elements of electrical service, including transmission of electricity provided to retail consumers, weakens the ability of California to protect its people, such unbundling should be reconsidered and reversed.~~

~~(o) Direct transactions, popularly termed direct access, as a means for obtaining retail electrical service, have resulted in massive subsidies of some retail customers by others. Direct access has resulted in increased costs for bundled service customers of electrical corporations, while failing to provide justifiable reduced costs for direct access customers. Direct access undermines the ability of public utilities to plan and invest to meet their obligation to serve, by making uncertain the amount of customer demand that must be met. To the extent that retail competition is permitted by the Legislature, the existing direct access program should be replaced by a retail competition program that is more stable and transparent, that promotes renewable and other clean sources of electricity, and that fairly assigns risks and costs between different customer classes, electrical corporations, and retail competitors.~~

~~(p) The expectations and assumption that deregulation of the electrical industry would provide consumer benefits, enhanced reliability, lower rates and technological innovation, have proven illusory. Instead, consumers have been and will be forced to pay for massive costs incurred as a result of deregulation, and have suffered from unprecedented degradation in the reliability of electricity supply. Public utilities have been forced to near financial ruin or to seek bankruptcy protection. Certain merchant generators and marketers are in severe financial distress.~~

~~(q) It is in the public interest to repudiate the failed policies of electrical industry deregulation, and to assure the people of California that electrical service will be reliable, affordable, efficient, and clean in the future through effective regulation.~~

~~SEC. 4.—Section 330.2 is added to the Public Utilities Code, to read:~~

~~330.2.—It is the intent of the Legislature to achieve effective state regulation of California’s public utilities in order to protect ratepayers, ensure adequate and efficient electrical service, to protect public health and the environment, and to pursue the following policy goals:~~

~~(a) Restore and affirm the public utility’s obligation to serve.~~

~~(b) Protect public health and the environment.~~

~~(c) Eliminate opportunities for market manipulation by stopping electric plant divestiture and authorizing construction of new electric plant, pursuant to subdivision (b) of Section 454.10 and subject to the maximum cost limitation of Section 1005.5, while providing a reasonable opportunity for reasonable return of and on prudent investments, and appropriate rules for public utility wholesale electricity procurement.~~

~~(d) Ensure reasonable and prudent investments in energy conservation and environmentally clean and efficient generation of electricity that is subject to state regulation and oversight.~~

~~(e) Ensure electricity supply reliability and deter market manipulation by establishing and enforcing effective standards for maintenance and operation of electric plants that serve California.~~

~~(f) Ensure that all cost-effective transmission and distribution alternatives that meet the identified need, including demand-side alternatives, are considered in transmission and distribution planning.~~

~~(g) Provide for cost-effective construction, operation and maintenance of the electrical transmission grid and distribution system, or cost-effective alternatives, in the public interest, while providing a fair opportunity for reasonable returns on prudent investment.~~

~~(h) Protect consumers from slamming, cramming and fraud by requiring metering, billing, collection, and customer service to be provided in the most efficient and least costly manner to customers by public utilities, under regulation by the CPUC.~~

~~(i) Preserve and renew the skilled public utility workforce by providing reasonable wages and working conditions, and ensuring that the public utilities have an adequately sized and trained workforce, with a preference for utility employees, to meet their obligation to serve.~~

~~(j) Establish a comprehensive integrated resource planning process under regulation that results in a balanced, reliable, environmentally responsible portfolio, consisting of a cost-effective mix of customer-owned, utility-owned, and nonutility supply and demand reduction resources, and is consistent with Sections 454.5 and 701.1, Article 16 (commencing with Section 399.11), and Chapter 4 (commencing with Section 25300) of Division 15 of the Public Resources Code.~~

~~(k) Offer first consideration, when providing for resource adequacy, to available energy efficiency resources and renewable resources, consistent with Article 16 (commencing with Section 399.11), that are cost-effective compared to other available resource options.~~

~~(l) Simplify corporate ownership of electrical corporations by requiring transparent forms of corporate ownership of public utilities, by improving accountability for holding company requirements in state law and by seeking enforcement of the Public Utilities Holding Company Act of 1935 (Ch. 2C (commencing with Sec. 79), Title 15, U.S.C.).~~

~~(m) Provide for fair cost allocation among customers in just and reasonable rates established through open public processes.~~

~~(n) Restore consumer and investor confidence in electrical corporation financial soundness and pricing fairness by making costs transparent and establishing and enforcing accounting standards.~~

~~(o) Assure universal service by assuring affordable rates and, among other measures, providing low-income discounts with effective enrollment programs.~~

~~(p) Provide an open regulatory forum where all persons affected by public utility service and rates can observe and participate in the decisionmaking process.~~

~~(q) Ensure that public utilities, their facilities and plant, and any real property they own, are operated and managed in an environmentally sound manner.~~

~~(r) Ensure that in its proceedings, the commission actively promotes protection of ratepayers and the environment.~~

~~SEC. 5.~~

*SEC. 4.* Section 330.4 is added to the Public Utilities Code, to read:

1 330.4. The actions of the commission pursuant to this part, as  
2 they affect electrical service, shall be consistent with the findings  
3 and declarations contained in this article.

4 ~~SEC. 6.~~

5 *SEC. 5.* Section 330.6 is added to the Public Utilities Code, to  
6 read:

7 330.6. (a) Because of their status as public utilities pursuant  
8 to Article XII of the California Constitution, and consistent with  
9 Sections 399.2 and 451, electrical corporations and gas  
10 corporations that serve retail customers have an obligation to serve  
11 those customers with reliable service at just and reasonable rates.

12 ~~(b) This obligation to serve includes a duty to promote the~~  
13 ~~safety, health, environmental protection, comfort, and~~  
14 ~~convenience of its customers, employees, and the public,~~  
15 ~~consistent with the statutes of the state and the rules, regulations,~~  
16 ~~decisions, and orders of the commission. This obligation to serve~~  
17 ~~includes the obligation to plan for, and provide sufficient,~~  
18 ~~affordable, reliable, cost-effective resources, including utility~~  
19 ~~owned and procured generation resources, transmission resources,~~  
20 ~~and distribution resources.~~

21 *(b) This obligation to serve includes a duty to furnish and*  
22 *maintain adequate, efficient, just, and reasonable service, and to*  
23 *employ those instrumentalities, equipment, and facilities that are*  
24 *necessary to promote the safety, health, comfort, and convenience*  
25 *of utility customers, employees, and the public, while promoting a*  
26 *sustainable environment, consistent with the statutes of the state*  
27 *and the rules, regulations, decisions, and orders of the*  
28 *commission. The obligation to serve includes the obligation to*  
29 *plan for, and provide, sufficient, affordable, and reliable resources,*  
30 *including utility owned and procured generation resources,*  
31 *renewable generation resources, transmission and distribution*  
32 *resources, and cost-effective energy efficiency resources.*

33 (c) The commission, on behalf of end-use customers, shall  
34 ensure that the electrical corporation is afforded the means to carry  
35 out this obligation to serve, specifically including a reasonable  
36 opportunity to *fully* recover from all customers, in a manner  
37 determined by the commission pursuant to this code, reasonable  
38 costs to operate and maintain those resources, reasonable  
39 compensation for employees, a return of and a reasonable return  
40 on prudent investments in utility owned generation, transmission,

1 and distribution resources necessary to meet the obligations  
2 pursuant to subdivision (b), and reasonable costs for procured  
3 generation resources in accordance with Section 454.5.

4 ~~SEC. 7.~~

5 *SEC. 6.* Section 334 of the Public Utilities Code is repealed.

6 ~~SEC. 8.~~

7 *SEC. 7.* Section 338 of the Public Utilities Code is repealed.

8 ~~SEC. 9.~~

9 *SEC. 8.* Section 341.1 of the Public Utilities Code is repealed.

10 ~~SEC. 10.~~

11 *SEC. 9.* Section 341.5 of the Public Utilities Code is repealed.

12 ~~SEC. 11.~~

13 *SEC. 10.* Section 346 of the Public Utilities Code is repealed.

14 ~~SEC. 12.~~

15 *SEC. 11.* Section 348 of the Public Utilities Code is amended  
16 to read:

17 348. (a) The Independent System Operator, in consultation  
18 with the commission, shall adopt and periodically review and  
19 update inspection, maintenance, repair, and replacement standards  
20 for the transmission facilities under its control. The standards for  
21 each substantial type of transmission equipment or facility, shall  
22 provide for high quality, safe, and reliable service.

23 (b) In adopting its standards, the Independent System Operator  
24 shall consider all of the following:

25 (1) Cost.

26 (2) Local geography and weather.

27 (3) Applicable codes.

28 (4) National electric industry practices.

29 (5) Sound engineering judgment.

30 (6) Experience.

31 (c) The Independent System Operator shall also adopt  
32 standards for reliability, and safety during periods of emergency  
33 and disaster.

34 (d) The Independent System Operator shall require each  
35 transmission facility owner or operator to report annually on its  
36 compliance with the standards. That report shall be made available  
37 to the public.

38 ~~SEC. 13.~~

39 *SEC. 12.* Section 350 of the Public Utilities Code is repealed.

40 ~~SEC. 14.~~

1     *SEC. 13.* Section 352 of the Public Utilities Code is amended  
2 to read:

3     352. The Independent System Operator may not enter into a  
4 multistate regional transmission organization unless that entry is  
5 approved by the Oversight Board and the Legislature by  
6 concurrent resolution.

7     ~~SEC. 15.~~

8     *SEC. 14.* Section 355 of the Public Utilities Code is repealed.

9     ~~SEC. 16.~~

10    *SEC. 15.* Section 356 of the Public Utilities Code is repealed.

11    ~~SEC. 17.~~

12    *SEC. 16.* Section 359 of the Public Utilities Code is repealed.

13    ~~SEC. 18.~~

14    *SEC. 17.* Section 360 of the Public Utilities Code is repealed.

15    ~~SEC. 19.~~

16    *SEC. 18.* Section 361 of the Public Utilities Code is repealed.

17    ~~SEC. 20.~~

18    *SEC. 19.* Section 364 of the Public Utilities Code is amended  
19 to read:

20     364. (a) The commission shall adopt and periodically review  
21 and update inspection, maintenance, repair, and replacement  
22 standards for the distribution systems of investor-owned electric  
23 utilities. The standards for each substantial type of distribution  
24 equipment or facility shall provide for high quality, safe and  
25 reliable service.

26     (b) In setting its standards, the commission shall consider: cost,  
27 local geography and weather, applicable codes, national electric  
28 industry practices, sound engineering judgment, and experience.  
29 The commission shall also adopt standards for operation,  
30 reliability, and safety during periods of emergency and disaster.

31     (c) The commission shall require each utility to report annually  
32 on its compliance with the standards. That report shall be made  
33 available to the public.

34     (d) The commission shall conduct a review to determine  
35 whether the standards prescribed in this section and Section 348  
36 have been met. If the commission finds that the standards have not  
37 been met, the commission may order appropriate sanctions,  
38 including penalties in the form of rate reductions or monetary  
39 fines. The review shall be performed after every major outage.  
40 Any money collected pursuant to this subdivision shall be used to

1 offset funding for the California Alternative Rates for Energy  
2 Program.

3 ~~SEC. 21.~~

4 ~~SEC. 20.~~ Section 365 of the Public Utilities Code is repealed.

5 ~~SEC. 22.~~

6 ~~SEC. 21.~~ Section 365 is added to the Public Utilities Code, to  
7 read:

8 365. ~~On or before June 1, 2004, the~~ *The* commission shall  
9 develop, and submit to the Legislature for enactment as a statute,  
10 a detailed proposal for implementation of a “core/noncore” model  
11 for retail electric service that achieves each of the following  
12 objectives:

13 (a) Permits specified electrical corporation customers to  
14 purchase electricity directly from electric service providers.

15 (b) Provides that noncore customers forgo both the benefits and  
16 future-incurred costs of bundled electricity service from the  
17 electrical corporation.

18 (c) Provides that remaining core customers are served by the  
19 electrical corporation’s electricity resource portfolio.

20 (d) Requires each electrical corporation to maintain the value  
21 of its electricity resource portfolio for core customers.

22 (e) Ensures electrical corporations and core customers full and  
23 timely recovery of costs, including investments in long-term  
24 resource additions to the system, originally incurred to serve  
25 departing customers.

26 (f) Provides for full recovery of existing direct access  
27 customers’ energy cost obligations on a schedule comparable to  
28 the recovery of comparable costs from core customers.

29 (g) Provides an election process for determining which  
30 customers wish to remain core customers, and which customers  
31 opt for noncore service, administered in a manner that ensures a  
32 stable customer base for electrical corporations to support  
33 long-term integrated resource planning and investment.

34 (h) Requires electric service providers to comply with  
35 conditions, including, resource adequacy standards, that the  
36 commission determines to be necessary and appropriate to ensure  
37 there is no adverse effect on the reliability or cost of electricity for  
38 core customers.



(i) Requires electric service providers to comply with the requirements established pursuant to Article 16 (commencing with Section 399.11).

(j) Permits core customers to purchase renewable power at cost via electrical corporation renewable service options, in addition to an electrical corporation's obligations under Article 16 (commencing with Section 399.11).

(k) Restricts the eligibility of noncore customers to return to bundled service. Electrical corporation service to returning noncore customers shall be provided at a fully compensatory rate, and subject to contractual return conditions that prevent any cost shifting.

(l) Shows that a core/noncore program will support, and not be detrimental to, system reliability and future investments in electricity infrastructure and the objective of acquiring all cost-effective demand reduction resources on the system.

(m) Compares the public benefits of core/noncore to other electric service options, including *bundled service and* community choice aggregation, as provided in Section 366.2.

(n) Protects existing contractual rights.

~~SEC. 23.~~

~~SEC. 22.~~ Section 365.5 of the Public Utilities Code is repealed.

~~SEC. 24.~~

~~SEC. 23.~~ Section 366 of the Public Utilities Code is repealed.

~~SEC. 25.~~

~~SEC. 24.~~ Section 366 is added to the Public Utilities Code, to read:

*366. (a) New direct transactions shall not be authorized until the commission proposes rules pursuant to Section 365 and those rules are enacted as statutes.*

*(b) If a customer account was served by an electric service provider on April 1, 2003, the customer account may continue to be served by that electric service provider.*

~~366. (a) It is the intention of the Legislature that new direct transactions not be authorized until the commission proposes rules pursuant to Section 365 and those rules are enacted as statutes.~~

~~(b) Each customer within the geographical distribution area of an electrical corporation shall receive any retail electricity service from the electrical corporation or its successor in interest, except~~

1 as provided in subdivision (e) and Sections 366.1 and 366.2. For  
2 purposes of this section, retail electricity service does not include  
3 self-provision of electricity from customer-owned generation  
4 resources or provision of electricity consistent with subdivision  
5 (b) of Section 218.

6 (e) If a customer account was served by an electric service  
7 provider on April 1, 2003, the customer account may continue to  
8 be served by that electric service provider until the later of January  
9 1, 2005, or the date of expiration of the customer's direct  
10 transaction contract in effect on April 1, 2003. Thereafter, the  
11 customer shall receive any retail electricity service from the  
12 electrical corporation that provides distribution service.

13 (d) A customer that elects to continue purchasing electricity  
14 from an electric service provider pursuant to subdivision (e) shall  
15 supply the commission with a confidential copy of its current  
16 direct transaction contract and shall enter into a contract with the  
17 electrical corporation, as a condition of distribution service, that  
18 sets forth terms of return to bundled service that prevent  
19 cost-shifting.

20 (e) Any customer that the commission has determined in  
21 Decision 02-11-022, is responsible to pay a cost recovery  
22 surcharge as a condition of purchasing electricity pursuant to a  
23 direct transaction, shall continue to pay the cost recovery  
24 surcharge until full collection is achieved.

25 (f) The commission shall report to the Legislature by June 1,  
26 2004, all of the following:

27 (1) Each customer electing to continue purchasing electricity  
28 from an electric service provider pursuant to subdivision (e);  
29 identified numerically.

30 (2) The electrical load serviced under each direct transaction  
31 contract.

32 (3) The expiration date of each direct transaction contract.

33 ~~SEC. 26.~~

34 *SEC. 25.* Section 366.5 of the Public Utilities Code is  
35 repealed.

36 ~~SEC. 27.~~

37 *SEC. 26.* Section 367 of the Public Utilities Code is amended  
38 to read:

39 367. The commission shall identify and determine those costs  
40 and categories of costs for generation-related assets and

1 obligations, consisting of generation facilities, generation-related  
2 regulatory assets, nuclear settlements, and power purchase  
3 contracts, including, but not limited to, restructurings,  
4 renegotiations or terminations thereof approved by the  
5 commission, that were being collected in commission-approved  
6 rates on December 20, 1995, and that may become uneconomic as  
7 a result of a competitive generation market, in that these costs may  
8 not be recoverable in market prices in a competitive market, and  
9 appropriate costs incurred after December 20, 1995, for capital  
10 additions to generating facilities existing as of December 20, 1995,  
11 that the commission determines are reasonable and should be  
12 recovered, provided that these additions are necessary to maintain  
13 the facilities through December 31, 2001. These uneconomic costs  
14 shall include transition costs as defined in subdivision (f) of  
15 Section 840, and shall be recovered from all customers or in the  
16 case of fixed transition amounts, from the customers specified in  
17 subdivision (a) of Section 841, on a nonbypassable basis and shall:

18 (a) Be amortized over a reasonable time period, including  
19 collection on an accelerated basis, consistent with not increasing  
20 rates for any rate schedule, contract, or tariff option above the  
21 levels in effect on June 10, 1996, provided that, the recovery shall  
22 not extend beyond December 31, 2001, except as follows:

23 (1) Costs associated with employee-related transition costs as  
24 set forth in subdivision (b) of Section 375 shall continue until fully  
25 collected; provided, however, that the cost collection shall not  
26 extend beyond December 31, 2006.

27 (2) Power purchase contract obligations shall continue for the  
28 duration of the contract. Costs associated with any buyout,  
29 buydown, or renegotiation of the contracts shall continue to be  
30 collected for the duration of any agreement governing the buyout,  
31 buydown, or renegotiated contract; provided, however, no power  
32 purchase contract shall be extended as a result of the buyout,  
33 buydown, or renegotiation.

34 (3) Nuclear incremental cost incentive plans for the San Onofre  
35 nuclear generating station shall continue for the full term as  
36 authorized by the commission in Decision 96-01-011 and Decision  
37 96-04-059; provided that the recovery shall not extend beyond  
38 December 31, 2003.

39 (4) Fixed transition amounts, as defined in subdivision (d) of  
40 Section 840, may be recovered from the customers specified in

subdivision (a) of Section 841 until all rate reduction bonds associated with the fixed transition amounts have been paid in full by the financing entity.

(b) (1) There shall be a firewall segregating the recovery of the costs of competition transition charge exemptions such that the costs of competition transition charge exemptions granted to members of the combined class of residential and small commercial customers shall be recovered only from these customers, and the costs of competition transition charge exemptions granted to members of the combined class of customers, other than residential and small commercial customers, shall be recovered only from these customers.

(2) The commission shall retain existing cost allocation authority, provided the firewall and rate freeze principles are not violated.

~~SEC. 28.~~

~~SEC. 27.~~ Section 367.5 is added to the Public Utilities Code, to read:

367.5. (a) The commission shall establish a Ratepayer Refund Account for each electrical corporation. All refunds, net of litigation costs as authorized by the commission, recovered by an electrical corporation, either directly or indirectly, by way of offset against amounts otherwise owed by the electrical corporation, resulting from any litigation or agreement relative to the charging of excessive costs for wholesale electricity by electrical generators, traders, and suppliers that have been recovered, or are recoverable, from ratepayers in commission-approved rates, shall be credited to the electrical corporation's Ratepayer Refund Account *in an amount and manner authorized by the commission*.

(b) All funds held by an electrical corporation that are required by this section to be credited to the Ratepayer Refund Account of the corporation shall be held in trust for the benefit of ratepayers ~~in an amount and manner authorized by the commission~~.

~~SEC. 29.~~

~~SEC. 28.~~ Section 367.7 of the Public Utilities Code is repealed.

~~SEC. 30.~~

~~SEC. 29.~~ Section 370 of the Public Utilities Code is repealed.

~~SEC. 31.~~

1     *SEC. 30.*   Section 373 of the Public Utilities Code is repealed.

2     ~~*SEC. 32.*~~

3     *SEC. 31.*   Section 376 of the Public Utilities Code is repealed.

4     ~~*SEC. 33.*~~

5     *SEC. 32.*   Section 377 of the Public Utilities Code is amended  
6 to read:

7     377.   The commission shall regulate the facilities for the  
8 generation of electricity owned by any public utility pursuant to  
9 subdivision (b) of Section 454.10. Notwithstanding any other  
10 provision of law, no facility or site for the generation of electricity  
11 owned by a public utility may be disposed of prior to January 1,  
12 2010. The commission shall ensure that public utility generation  
13 assets remain dedicated for the benefit of the electrical  
14 corporation's bundled customers.

15    ~~*SEC. 34.*~~

16    *SEC. 33.*   Section 378 of the Public Utilities Code is repealed.

17    ~~*SEC. 35.*~~

18    *SEC. 34.*   Section 379 of the Public Utilities Code is amended  
19 to read:

20    379.   Nuclear decommissioning costs shall be recovered as a  
21 nonbypassable charge until the costs are fully recovered. Recovery  
22 of decommissioning costs may be accelerated to the extent  
23 possible.

24    ~~*SEC. 36.*~~

25    *SEC. 35.*   Section 389 of the Public Utilities Code is repealed.

26    ~~*SEC. 37.*~~

27    *SEC. 36.*   Section 391 of the Public Utilities Code is repealed.

28    ~~*SEC. 38.*~~

29    *SEC. 37.*   Section 392 of the Public Utilities Code is amended  
30 to read:

31    392.   Electrical corporations shall disclose each component of  
32 the electrical bill as directed by the commission.

33    ~~*SEC. 39.*—Section 393.1 is added to the Public Utilities Code;~~  
34 ~~to read:~~

35    ~~393.1.—The Legislature finds and declares all of the following:~~

36    ~~(a) Metering customer usage of electricity is an integral part of~~  
37 ~~the electricity distribution system, and is the responsibility of the~~  
38 ~~electrical corporation.~~

~~(b) Accurately applying utility tariffs approved by the commission and calculating a customer's bill is the responsibility of the electrical corporation.~~

~~(c) If electricity metering is performed by entities other than the electrical corporation, it can create customer confusion, and can create serious safety hazards for customers and utility employees.~~

~~(d) Customers are entitled to have the electrical corporation resolve all questions regarding the accuracy of bills, including the accuracy of metering and correct application of approved utility tariffs, subject to commission oversight.~~

~~(e) To protect customers from fraud and abuse, and to enable customers to easily resolve disputes concerning metering or billing, those functions should be performed in the most efficient and least costly manner, only by an electrical corporation subject to regulation by the commission.~~

~~SEC. 40.~~

*SEC. 38.* Section 393.2 is added to the Public Utilities Code, to read:

393.2. (a) All metering of customer usage of electricity and customer billing shall be performed by the electrical corporation.

(b) No residential or small commercial customer with average usage of less than 1,000 kilowatthours per month may be required to take service under a time-differentiated rate.

(c) Nothing in this article limits the commission's power or authority with respect to the contents or nature of customer billing. The commission may require an electrical corporation to aggregate a customer's multiple accounts into a single bill, so long as the cost for that activity is recoverable in rates.

~~SEC. 41.~~

*SEC. 39.* Section 397 of the Public Utilities Code is repealed.

~~SEC. 42.—~~

*SEC. 40.* Section 454.51 is added to the Public Utilities Code, to appear immediately following Section 454.5, to read:

454.51. (a) An incentive mechanism established pursuant to paragraph (2) of subdivision (c) of Section 454.5 for energy supply resources shall provide comparable performance standard incentives for demand reduction resources.

(b) The commission shall ensure timely recovery of the reasonable costs of all cost-effective energy efficiency and other demand reduction programs incurred pursuant to the electrical

1 *corporation's procurement plan authorized pursuant to Section*  
2 *454.5 that exceed the funding provided through the corporation's*  
3 *system benefits change established pursuant to Section 399.8.*

4 *SEC. 41.* Section 454.55 is added to the Public Utilities Code,  
5 to appear immediately following Section ~~454.5~~ 454.51, to read:

6 454.55. (a) The commission shall establish and oversee a  
7 long-term, comprehensive integrated resource planning process  
8 that results in a balanced, reliable, environmentally responsible  
9 portfolio of supply and demand-reduction resources, and is  
10 consistent with Sections 454.5 and 701.1, Article 16 (commencing  
11 with Section 399.11), and Chapter 4 (commencing with Section  
12 25300) of Division 15 of the Public Resources Code.

13 (b) The commission shall ensure that the implementation of an  
14 electrical corporation's procurement plan is consistent with the  
15 long-term resource plan, to the extent feasible.

16 (c) The commission shall require an electrical corporation,  
17 when implementing its procurement plan, to first acquire ~~available~~  
18 ~~energy efficiency resources that are cost-effective compared to~~  
19 ~~other available resource options.~~

20 ~~SEC. 43.~~ *—all available energy efficiency resources that are*  
21 *cost-effective compared to other available long-term resource*  
22 *options.*

23 *SEC. 42.* Section 454.1 of the Public Utilities Code, as added  
24 by Chapter 1040 of the Statutes of 2000, is amended and  
25 renumbered to read:

26 454.6. (a) Reasonable expenditures by transmission owners  
27 that are electrical corporations to plan, design, and engineer  
28 reconfiguration, replacement, or expansion of transmission  
29 facilities or other cost-effective transmission alternatives,  
30 including demand side alternatives, that meet identified need, are  
31 in the public interest and are deemed prudent if made for the  
32 purpose of providing delivery of lower cost electricity to  
33 ratepayers, or maintaining or enhancing reliability, whether or not  
34 these expenditures are for transmission facilities that become  
35 operational.

36 (b) The commission and the Electricity Oversight Board shall  
37 jointly facilitate the efforts of the state's transmission owning  
38 electrical corporations to obtain authorization from the Federal  
39 Energy Regulatory Commission to recover reasonable  
40 expenditures made for the purposes stated in subdivision (a).



(c) Nothing in this section alters or affects the recovery of the reasonable costs of other electric facilities in rates pursuant to the commission's existing ratemaking authority under this code or pursuant to the Federal Power Act ( Ch. 12 (commencing with Section 791a), Title 16, U.S.C.). The commission may periodically review and adjust depreciation schedules and rates authorized for an electric plant that is under the jurisdiction of the commission and owned by electrical corporations and periodically review and adjust depreciation schedules and rates authorized for a gas plant that is under the jurisdiction of the commission and owned by gas corporations, consistent with this code.

~~SEC. 44.~~

*SEC. 43.* Section 454.10 is added to the Public Utilities Code, to read:

454.10. (a) Consistent with Article 16 (commencing with Section 399.11), Sections 454.5, 701.1, and 762, and Chapter 4 (commencing with Section 25300) of Division 15 of the Public Resources Code, and in order to ensure that service provided by electrical corporations is environmentally clean, efficient, cost-effective to ratepayers, and adequate, the commission may require an electrical corporation that provides distribution service to make direct investments in, or contract with any entity, public or private, for, electric generation plants that are dedicated to serve the customers connected to the electrical corporation's distribution system or grid, consistent with the plan approved by the commission pursuant to Section 454.5.

(b) After a hearing, the commission shall approve rates that provide the electrical corporation a reasonable opportunity to recover its reasonable costs of operating, its reasonable investment in, and a reasonable return on its investment in the electric generation plants, in accordance with Sections 330.6, 451, and 1005.5.

(c) An electrical corporation may meet the obligations of this section by contracting with or entering into projects for construction of electric generation plants jointly with any entity, including, without limitation, the California Consumer Power and Conservation Financing Authority, California municipalities, cooperatives, and joint powers authorities.

(d) Direct investment in electric generation plants is not the exclusive method for electrical corporation's to fulfill their

1 obligation to serve retail customers at just and reasonable rates.  
2 The commission shall implement this section through a  
3 transparent process that achieves a balanced, reliable,  
4 environmentally responsible and cost-effective resource portfolio.

5 (e) This section does not limit or affect the requirements for  
6 utilization of cost-effective energy conservation and renewable  
7 resources established pursuant to this division.

8 ~~SEC. 45.—Section 701.2 is added to the Public Utilities Code,~~  
9 ~~to read:~~

10 ~~701.2.—On or before July 1, 2004, the commission shall adopt~~  
11 ~~standards applicable to the operation, maintenance, and~~  
12 ~~stewardship of lands owned or operated by electrical corporations~~  
13 ~~in order to ensure that the lands, and any natural resources on those~~  
14 ~~lands, are managed in a manner consistent with applicable laws~~  
15 ~~protecting public health, the environment, species, habitat and~~  
16 ~~other resource values.~~

17 ~~SEC. 46.—Section 739.12 is added to the Public Utilities Code,~~  
18 ~~to read:~~

19 ~~739.12.—(a) The Legislature finds and declares all of the~~  
20 ~~following:~~

21 ~~(1) Unlike most businesses or industries, and unlike the~~  
22 ~~California electrical system as a whole, public school facilities~~  
23 ~~tend to have peak electrical usage during winter rather than~~  
24 ~~summer months.~~

25 ~~(2) Public school facilities as a group impose lower average~~  
26 ~~costs on the electrical system than other facilities of similar size.~~

27 ~~(3) Current rates do not adequately reflect the seasonal load~~  
28 ~~shape of public school facilities.~~

29 ~~(4) Because of the critical importance of public education and~~  
30 ~~the unique characteristics typically exhibited by public school~~  
31 ~~facilities, these facilities should be served at the lowest reasonable~~  
32 ~~rate.~~

33 ~~(5) Rates for public school facilities should be reduced to~~  
34 ~~reflect a discount from the electrical corporations otherwise~~  
35 ~~applicable rate schedules.~~

36 ~~(b) The commission shall establish by July 1, 2004, special~~  
37 ~~bundled service rates for public school facilities that reflect the~~  
38 ~~typical seasonal load shape of public schools and the special~~  
39 ~~importance of public education.~~

~~(c) For purposes of subdivision (b), “public school facilities” means all real property and portable classrooms owned or leased by a school district, county office of education, charter school, community college district, the California State University and the system of institutions of higher education which comprises the California State University as authorized in Section 89001 of the Education Code, and the Trustees of the California State University.~~

~~SEC. 47.~~ Section 761.7 is added to the Public Utilities Code, to read:

~~761.7. An electrical corporation, holding company as defined in Section 79b(a)(7)(A) of Title 15 of the United States Code, or other entity that owns, controls, operates, or manages a public utility shall be subject to the jurisdiction, control, and regulation of the commission for the limited purpose of monitoring and enforcing conditions in commission decisions D.88-01-063, D.96-11-017, D.99-04-068, D.95-05-021, D.95-12-018, and D.98-03-07.~~

~~SEC. 48.~~

~~SEC. 44.~~ Section 9600 of the Public Utilities Code is repealed.

~~SEC. 49.~~

~~SEC. 45.~~ Section 9601 of the Public Utilities Code is repealed.

~~SEC. 50.~~

~~SEC. 46.~~ Section 9602 of the Public Utilities Code is repealed.

~~SEC. 51.~~

~~SEC. 47.~~ Section 9603 of the Public Utilities Code is repealed.

~~SEC. 52.~~

~~SEC. 48.~~ Section 9604 of the Public Utilities Code is amended to read:

9604. For purposes of this division, “local publicly owned electric utility” as used in this division means a municipality or municipal corporation operating as a “public utility” furnishing electric service as provided in Section 10001, a municipal utility district furnishing electric service formed pursuant to Division 6 (commencing with Section 11501), a public utility district furnishing electric services formed pursuant to the Public Utility District Act set forth in Division 7 (commencing with Section 15501), an irrigation district furnishing electric services formed pursuant to the Irrigation District Law set forth in Division 11 (commencing with Section 20500) of the Water Code, or a joint

1 powers authority that includes one or more of these agencies and  
2 that owns generation or transmission facilities, or furnishes  
3 electric services over its own or its member's electric distribution  
4 system.

5 ~~SEC. 53.~~

6 *SEC. 49.* Section 9605 of the Public Utilities Code is repealed.

7 ~~SEC. 54.~~

8 *SEC. 50.* The provisions of this act are severable. If any  
9 provision of this act or its application is held invalid, that invalidity  
10 shall not affect other provisions or applications that can be given  
11 effect without the invalid provision or application.

12 ~~SEC. 55.— Notwithstanding any other provision of this act, this~~  
13 ~~act shall not become operative, and is for display purposes only.~~

14 ~~SEC. 56.—~~

15 *SEC. 51.* *It is the intent of the Legislature to reaffirm, without*  
16 *requiring revision, California's doctrine, as reflected in regulatory*  
17 *and judicial decisions, regarding electrical corporations'*  
18 *reasonable opportunity to recover costs and investments.*

19 *SEC. 52.* No reimbursement is required by this act pursuant  
20 to Section 6 of Article XIII B of the California Constitution  
21 because the only costs that may be incurred by a local agency or  
22 school district will be incurred because this act creates a new crime  
23 or infraction, eliminates a crime or infraction, or changes the  
24 penalty for a crime or infraction, within the meaning of Section  
25 17556 of the Government Code, or changes the definition of a  
26 crime within the meaning of Section 6 of Article XIII B of the  
27 California Constitution.

